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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2009-3840

**MILES PETER SALINAS
P.O. Box 993843
Redding, CA 96099**

A C C U S A T I O N

Vocational Nurse License No. VN 179450

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about January 23, 1997, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 179450 to Miles Peter Salinas (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section **118(b)** of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

5. Section **2875** of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

STATUTORY PROVISIONS

6. Section **490** of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

7. Section **2878** of the Code states in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

• • •

(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

• • •

8. California Code of Regulations, Title 16, section **2521**, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed

1 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
2 vocational nurse to perform the functions authorized by his license in a manner consistent with
3 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
4 involving the following:

5 (a) Procuring a license by fraud, misrepresentation, or mistake.

6 (b) A conviction of practicing medicine without a license in violation of Chapter 5 of
7 Division 2 of the Business and Professions Code.

8 (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
9 violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the
10 Business and Professions Code.

11 (d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a
12 licensed physician or not, in the performance of or arranging for a violation of any of the
13 provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

14 (e) Conviction of a crime involving fiscal dishonesty.

15 (f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or
16 dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and
17 Professions Code.

18 **COST RECOVERY**

19 9. Section **125.3** of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 **FACTUAL SUMMARY**

24 10. On or about August 17, 2010, in Kern Superior Court Case No. BF 129521A, *People*
25 *of the State of California vs. Miles Peter Salinas*, Respondent was convicted of having violated
26 Insurance Code section 1871.4(A)(2) (making false statements in a claim for workers'
27 compensation benefits as defined in Labor Code section 3207), Penal Code section 550(B)(3)
28 (failure to disclose event affecting benefits), and Business and Professions Code section 7027.3

1 (falsely using a contractor's license number).

2 11. On September 28, 2010, the court sentenced Respondent to three years probation. He
3 was ordered to pay \$525.00 in fines, complete 500 hours of community service by September 28,
4 2011, serve 180 days in jail on each count (time to be served concurrently), and pay \$14,848.16 in
5 restitution. He was referred to the work release program, and he was restricted from handling
6 worker's compensation cases.

7 12. The conduct underlying the above-described convictions was as follows:

- 8 a. On or about November 7, 2006, Respondent allegedly injured his shoulder in the
9 parking lot of Tehachapi Correctional Institution, where Respondent was employed as a
10 licensed vocational nurse. On November 29, 2006, Applicant was placed on temporary
11 total disability, and he received disability benefits and medical coverage through the
12 State of California worker's compensation program.
- 13 b. On or about April 18 and 21, 2007, applicant was filmed doing heavy manual
14 landscaping work using his allegedly injured right shoulder. Both before and after these
15 observations were made, Respondent made statements in which he alleged that he was
16 unable to work due to injuries to his right shoulder. The landscaping work that
17 Respondent was observed performing was a paid contracting job that Respondent had
18 obtained by illegally using a Contractor's license number which he was not authorized
19 to use.
- 20 c. On May 18, 2007, Respondent falsely signed a document for worker's compensation
21 benefits, stating that he had not earned any income since his injury.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct)

24 13. Respondent is subject to disciplinary action under Code section 2878(a) in that he
25 acted unprofessionally, as set forth above in paragraphs 10-12.

26 **SECOND CAUSE FOR DISCIPLINE**

27 (Criminal Conviction)

28 14. Respondent is subject to disciplinary action under sections 490 and 2878(f) of the

Code in that he has been convicted of crimes substantially related to the qualifications, functions, and duties of a licensed vocational nurse, as set forth above in paragraphs 10-12.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

15. Respondent is subject to disciplinary action under section 2878(j) of the Code in that he committed acts involving dishonesty that were related to the duties and functions of the licensee, as set forth above in paragraphs 10-12.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, Board of Vocational Nursing and Psychiatric Technicians issue a decision:

1. Revoking or suspending Vocational Nurse License Number VN 179450, issued to Miles Peter Salinas;

2. Ordering Miles Peter Salinas to pay the Board of Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 05/17/11



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric
Technicians
Department of Consumer Affairs
State of California
Complainant